37

RECEIPT NUMBER
39298

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Exhibits 1-4

PANTERA PARTNERSHIP,
a Texas partnership,

Plaintiff,

v.

LEIF ALFENAS, an individual,

Defendant.

Case: 2:07-cv-13244
Assigned To: Friedman, Bernard A
Referral Judge: Scheer, Donald A
Filed: 08-03-2007 At 12:13 PM
CMP PANTERA PARTNERSHIP V ALFENAS
(EW)

HERTZ SCHRAM PC
By: Howard Hertz (P26653)
Derek D. McLeod (P66229)
Attorneys for Plaintiff
1760 South Telegraph Road, #300
Bloomfield Hills, MI 48302
(248) 335-5000

COMPLAINT AND DEMAND FOR TRIAL BY JURY

Now comes the Plaintiff, Pantera Partnership ("Plaintiff"), by and through its attorneys, Hertz Schram PC, and for its causes of action against the above-named Defendant, states as follows:

INTRODUCTION

1. Plaintiff consists of members of the world famous music group known as "Pantera".

2. This case involves the above-named Defendant's blatant and unauthorized infringement, dilution, and otherwise actionable conduct regarding Plaintiff's world famous trademark and service mark PANTERA.

3. As averred below consistent with Fed. R. Civ. P. 8(a), Plaintiff alleges

claims for federal trademark and service mark infringement and dilution, false designation of origin or sponsorship, false advertising, unfair competition and cyberpiracy under the Lanham Act, 15 U.S.C. §§ 1051, *et seq.*, the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c), and the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), as well as state law claims for unfair competition, tortious interference with business expectancy, breach of implied contract, and conversion.

4. Accordingly, Plaintiff seeks a permanent injunction preventing the above-named Defendant from using the distinctive PANTERA trademark and service mark as his Internet domain name, www.pantera.com, along with an award of damages, attorney fees, and costs.

THE PARTIES

5. Plaintiff, Pantera Partnership ("Plaintiff") is a Texas partnership, with its principal place of business in Texas.

6. Defendant, Leif Alfenas ("Defendant"), an individual, is a citizen of the State of Michigan, residing at 13481 Phelps Street, Southgate, Michigan 48195.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, and 1338, as well as 15 U.S.C. § 1121, which gives this Court jurisdiction over all claims arising under the Lanham Act, 15 U.S.C. §§ 1051, *et seq.*, the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c),and the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d).

8. This Court also has jurisdiction for all state law claims pursuant to 28

U.S.C. § 1367.

9. Venue is proper pursuant 28 U.S.C. § 1391(b) given that:

a. Defendant resides in this judicial district;

b. the events giving rise to this action occurred in this judicial district; and

c. Defendant is found in this judicial district.

BACKGROUND AND FACTS

10. Plaintiff owns the trademark and the service mark PANTERA.

11. Plaintiff has exclusively utilized the PANTERA name in commerce and for commercial purposes for the past twenty-four (24) years.

12. The recording and live performing artist "Pantera" is a landmark band which, since the early 1980s, has sold more than fifteen (15) million units of its various albums, in addition to substantial merchandise sales, including millions of t-shirts. Further, "Pantera" has sold millions of tickets for its worldwide tours. "Pantera" continues to sell significant recordings and merchandise today. For example, last week alone, approximately 7,800 copies of its recordings were sold.

13. Defendant is not now and has never been a partner in Pantera Partnership (Plaintiff).

14. As a consequence, Defendant has no ownership interest in the PANTERA trademark and service mark.

15. Put succinctly, Defendant is in no way affiliated with or sponsored by Plaintiff and has no authority to use the PANTERA trademark and service mark to

identify the Internet website found at www.pantera.com.

16. More particularly, Defendant operates, maintains, exercises control, traffics in, and/or uses over the Internet the domain name www.pantera.com. *See* **Exhibit 1**: Example of Defendant's Relationship to the Internet domain name www.pantera.com.

17. Further, upon information and belief, Defendant registered or otherwise acquired the Internet domain name www.pantera.com. *See* **Exhibit 1**.

18. Defendant's operation, maintenance, exercise of control, registration, trafficking in, and/or use of the Internet domain name www.pantera.com was initially conducted on behalf of Plaintiff and with Plaintiff's consent as an independent contractor. Put another way, www.pantera.com served as Plaintiff's official website and was listed as such on record and compact disc packaging as well as on the website itself through 2002, during which time Defendant's conduct concerning www.pantera.com continued with the permission and at the sole discretion of Plaintiff.

19. However, during the past several years, based upon Defendant's derogatory comments on www.panterachat.com regarding Plaintiff, Plaintiff determined it was in its best interest to regain control over its official website, www.pantera.com, and notified Defendant that he was no longer authorized to operate, maintain, exercise control of, register, traffic in, and/or use the Internet domain name www.pantera.com. *See* **Exhibit 2**: Message Board Excerpts. Correspondingly, Plaintiff demanded that Defendant deliver www.pantera.com to Plaintiff. Plaintiff's action in this respect is understandable given that www.pantera.com and www.panterachat.com were linked to

each other and Plaintiff did not want the derogatory comments on www.panterachat.com to be associated with its official website at www.pantera.com. Defendant is the site administrator for www.panterachat.com, an online bulletin board. Defendant's first amendment rights are preserved as Plaintiff has no objection to his continued use of www.panterachat.com as a fan site to express his opinions.

20. To date, Plaintiff's efforts to resolve this matter this matter with Defendant have proved fruitless.

21. On July 17, 2007, and in order to avoid the instant litigation, counsel for Plaintiff sent correspondence to Defendant requesting that:

a. Defendant cease and desist all ownership, operation, maintenance, control over, registration, trafficking in, and/or use of the Internet domain name www.pantera.com;

b. Defendant deliver the Internet domain name www.pantera.com and any required documents of transfer to Plaintiff; and

c. Defendant stop using the Internet domain name www.pantera.com for any purpose.

Exhibit 3: 7/17/07 Correspondence.

22. Counsel for Defendant responded in a letter dated July 24, 2007. **Exhibit 4**: 7/24/07 Response.

23. Because Defendant refuses to resolve this matter without litigation, Plaintiff must now come before this Court to obtain redress through the following Counts.

Count I—FEDERAL TRADEMARK/SERVICE MARK
INFRINGEMENT AND DILUTION (15 U.S.C. § 1125(c))

24. Plaintiff incorporates by reference Paragraphs 1 through 24 of this

Complaint as if fully realleged and restated herein.

25. The PANTERA trademark and service mark have become famous and distinctive throughout the world through Plaintiff's continuous and exclusive use of the PANTERA trademark and service mark in connection with its music, merchandise, and other ventures, such as Internet website operations.

26. Defendant's operation, maintenance, exercise of control, registration, trafficking in, and/or use of the Internet domain name www.pantera.com constitutes a violation of Plaintiff's rights under the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c).

27. Defendant has willfully and intentionally used and continues to use the PANTERA trademark and service mark in connection with the Internet domain name www.pantera.com.

28. Defendant's conduct concerning the PANTERA trademark and service mark constitutes willful infringement and has caused the PANTERA trademark and service mark to be diluted.

29. As a direct and proximate result of Defendant's unlawful acts as set forth above, Plaintiff has suffered and will continue to suffer injury to its business, goodwill, and property.

Count II—FALSE DESIGNATION OF ORIGIN OR SPONSORSHIP, FALSE ADVERTISING, AND UNFAIR COMPETITION (15 U.S.C. § 1125(a))

30. Plaintiff incorporates by reference Paragraphs 1 through 30 of this Complaint as if fully realleged and restated herein.

31. The PANTERA trademark and service mark have become famous and

distinctive throughout the world through Plaintiff's continuous and exclusive use of the PANTERA trademark and service mark in connection with its music, merchandise, and other ventures, such as Internet website operations.

32. Defendant's operation, maintenance, exercise of control, registration, trafficking in, and/or use of the Internet domain name www.pantera.com constitutes a violation of section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

33. Defendant has willfully and intentionally used and continues to use the PANTERA trademark and service mark in connection with the Internet domain name www.pantera.com.

34. Defendant's conduct as averred has had a substantial effect on interstate commerce, and constitutes false designation of origin or sponsorship, false advertising of the mistaken notion that has already caused and/or is likely to cause confusion concerning affiliation, connection, or association of Plaintiff with Defendant, and/or concerning Plaintiff's sponsorship or approval of the Internet domain name www.pantera.com.

35. As a direct and proximate result of Defendant's unlawful acts as set forth above, Plaintiff has suffered and will continue to suffer injury to its business, goodwill, and property.

Count III—ANTICYBERSQUATTING
CONSUMER PROTECTION ACT (15 U.S.C. § 1125(d))

36. Plaintiff incorporates by reference Paragraphs 1 through 36 of this Complaint as if fully realleged and restated herein.

37. Defendant has registered, trafficked in, and/or uses a trademark and

service mark that was famous at the time of registration of the Internet domain name www.pantera.com and is both identical and confusingly similar to or dilutive of the PANTERA trademark and service mark.

38. Defendant's operation, maintenance, exercise of control of, registration, trafficking in, and/or use of the Internet domain name www.pantera.com constitutes actionable bad faith in violation of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d).

39. As a direct and proximate result of Defendant's unlawful acts as set forth above, Plaintiff has suffered and will continue to suffer injury to its business, goodwill, and property.

Count IV—COMMON LAW UNFAIR COMPETITION

40. Plaintiff incorporates by reference Paragraphs 1 through 40 of this Complaint as if fully realleged and restated herein.

41. Plaintiff has developed consumer recognition in the PANTERA trademark and service mark within the State of Michigan (and elsewhere).

42. Defendant's operation, maintenance, exercise of control, registration, trafficking in, and/or use of the Internet domain name www.pantera.com has caused confusion and mistake and is likely to continue to cause confusion and mistake, and to deceive the public into believing that the Internet domain name www.pantera.com is associated with and/or authorized by Plaintiff.

43. Defendant's operation, maintenance, exercise of control, registration, trafficking in, and/or use of the Internet domain name www.pantera.com constitutes an

unfair method of competition, unfair and deceptive acts or practices in the conduct of trade and commerce, and unconscionable business conduct in violation of the common law.

44. Defendant operates, maintains, exercises control of, registration of, trafficking in, and/or use of the Internet domain name www.pantera.com to the detriment of Plaintiff and to the benefit of Defendant.

45. As a direct and proximate result of the conduct of Defendant as described above, Plaintiff has suffered and will continue to suffer harm and damages.

Count V—TORTIOUS INTERFERENCE WITH BUSINESS EXPECTANCY

46. Plaintiff incorporates by reference Paragraphs 1 through 46 of this Complaint as if fully realleged and restated herein.

47. Plaintiff has prospective business relations through the Internet domain name www.pantera.com.

48. Defendant's operation, maintenance, exercise of control, registration, trafficking in, and/or use of the Internet domain name www.pantera.com constitutes an intentional interference with Plaintiff's past and prospective relations by depriving Plaintiff of the right to fully exploit the on-line marketplace.

49. The business expectancies have a reasonable likelihood of future benefit to Plaintiff.

50. Defendant knew and continues to know of the business expectancies between Plaintiff and prospective business opportunities, such as the sale of music and/or PANTERA-related merchandise (i.e., shirts, hats, and related items) on the

Internet and is interfering with the business expectancy by diverting potential customer or business partners.

51. Defendant's operation, maintenance, exercise of control, registration, trafficking in, and/or use of the Internet domain name www.pantera.com operates to the detriment of Plaintiff and to the benefit of Defendant.

52. As a direct and proximate result of Defendant's interference with Plaintiff's business expectancy, Plaintiff has suffered and will continue to suffer harm and damages.

Count VI—BREACH OF IMPLIED CONTRACT

53. Plaintiff incorporates by reference Paragraphs 1 through 53 of this Complaint as if fully realleged and restated herein.

54. Pursuant to the conduct of the parties, Defendant's operation, maintenance, exercising control of, registering, trafficking in, and/or use of the Internet domain name www.pantera.com until 2003 was conducted solely at the express request and authorization of Plaintiff, which was subject to an at will termination of such rights.

55. In 2003, and subsequently, Plaintiff requested and demanded that Defendant cease operation, maintenance, exercise of control, registration, trafficking in, and/or use of the Internet domain name www.pantera.com and deliver the website to Plaintiff.

56. Defendant breached its obligations of the parties' implied contract by refusing to cease operation, maintenance, exercising control of, registering, trafficking in, and/or use of the Internet domain name www.pantera.com, and by failing to deliver

www.pantera.com to Plaintiff.

57. As a direct and proximate result of Defendant's breach of the parties' implied contract, Plaintiff has suffered and will continue to suffer harm and damages.

Count VII—CONVERSION

58. Plaintiff incorporates by reference Paragraphs 1 through 58 of this Complaint as if fully realleged and restated herein.

59. Defendant's operation, maintenance, exercise of control, registration, trafficking in, and/or use of the Internet domain name www.pantera.com constitutes an intentional dispossessing of Plaintiff's chattel, i.e., the PANTERA trademark and service mark.

60. Defendant's operation, maintenance, exercise of control, registration, trafficking in, and/or use of the Internet domain name www.pantera.com constitutes an intentional destruction or alteration of Plaintiff's chattel, i.e., the PANTERA trademark and service mark.

61. Defendant's operation, maintenance, exercise of control, registration, trafficking in, and/or use of the Internet domain name www.pantera.com constitutes an intentional use of Plaintiff's chattel, i.e., the PANTERA trademark and service mark, without Plaintiff's authority.

62. Defendant's operation, maintenance, exercise of control, registration, trafficking in, and/or use of the Internet domain name www.pantera.com constitutes a conversion of Plaintiff's chattel, i.e., the PANTERA trademark and service mark, through Defendant's refusal to deliver www.pantera.com to Plaintiff upon Plaintiff's repeated

demands.

63. As a direct and proximate result of Defendant's a conversion of Plaintiff's property, Plaintiff has suffered and will continue to suffer harm and damages.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, Pantera Partnership, respectfully prays that this Court enter an injunction and final judgment in its favor and against Defendant, Leif Alfenas, under all of the foregoing Counts as follows:

A. Issue a permanent injunction pursuant to 15 U.S.C. § 1116 enjoining Defendant or any person or entity acting in concert with him from:

i. Owning, operating, maintaining, exercising control of, registering, trafficking in, and using the Internet domain name www.pantera.com; and

ii. Engaging in any other activity constituting unfair competition with Plaintiff with respect to the PANTERA trademark and service mark, or constituting any infringement thereof, or of Plaintiff's rights therein, or to use or exploit the PANTERA trademark and service mark;

B. Order Defendant to deliver the Internet domain name www.pantera.com to Plaintiff; and

C. Award Plaintiff all damages, including statutory damages, as well as attorney fees and costs pursuant to all counts, including but not limited to, 15 U.S.C. § 1117.

Respectfully submitted,
HERTZ SCHRAM PC

By: ______________________
Howard Hertz (P26653)
Derek D. McLeod (P66229)
Attorneys for Plaintiff
1760 South Telegraph Road, #300
Bloomfield Hills, MI 48302
248-335-5000

Dated: August 3, 2007

DEMAND FOR TRIAL BY JURY

Now comes the Plaintiff, Pantera Partnership ("Plaintiff"), by and through its attorney, Hertz Schram PC, and hereby demands a trial by jury in the above-entitled action.

Respectfully submitted,
HERTZ SCHRAM PC

By: ______________________
Howard Hertz (P26653)
Derek D. McLeod (P66229)
Attorneys for Plaintiff
1760 South Telegraph Road, #300
Bloomfield Hills, MI 48302
248-335-5000

Dated: August 3, 2007

1

Pantera.com

From AboutUs

Title

The Premier Pantera Website

Description

The Official Pantera Website

Languages

English

Address

16682 Truwood
Woodhaven MI 48183 US

Contact

Leif Alfenas
pantera net@umich.edu
+1 734 671 0309

Additional Information

Related Domains

- Amazon.com
- Assoc-Amazon.com
- ClevelandLocalScene.com
- DamagePlan.com
- FatRockRadio.com
- H8.net
- HeavyBell.org
- KangEd.com
- MaliceCentral.com
- Metallica.com
- NathanGale.com
- NightWish.com
- Offspring.com
- Ozzy.com
- PanteRachat.com
- PanteraRocks.com
- Panterach.com
- PapaRoach.com
- ParadiseLost.co.uk
- Planetrjc.net
- The-Cesspool.com
- TroppMan.com
- Umich.edu

Go directly to site (http://www.pantera.com/)

consin
Michigan
Toronto
Detroit
Buffalo
Toledo
Pennsylv
Indiana
Ohio
West
Virginia
Louisville
007 Tele Atlas - Terms of Use
Kentucky

{{{stats}}}

(http://whois.domaintools.com/pantera.com) DomainTools.com (http://whois.domaintools.com/pantera.com)

(http://snapshot.compete.com/Pantera.com) Compete.com (http://snapshot.compete.com/Pantera.com)

External Links

- **Alexa**: Pantera.com (http://www.alexa.com/data/details/main?url=pantera.com)

Retrieved from "http://www.aboutus.org/Pantera.com"

Categories: The Official Pantera Website | Dimebag Darrell | Vinnie Paul | Phil Anselmo | Damageplan | CFH | Down | Superjoint Ritual | Gasoline | Metal | Heavy Metal | Dime Memorial | Kronk | Washburn | Randall | Dean Guitars | Cowboys From Hell | Vulgar Display | Far Beyond Driven | Southern Trendkill | Nola

- This page was last modified 06:06, 21 June 2006.
- All content is available under the terms of the GFDL and/or the CC By-SA License. (See **Copyrights** for details.)
- Privacy policy
- About AboutUs
- Disclaimers

NetworkSolutions

Login

Customer Service
Call us toll free

Your cart is empty

WHOIS Search Results

WHOIS Record For

pantera.com
Services from Network Solutions:

Certified Offer Service - Let us help you get this domain name!

Backorder - Try to get this name when it becomes available.

SSL Certificates - Get peace of mind with a secure certificate.

Discover a New A
Learn how G
Network Sol
can help you
customer base with pa
advertising.

FREE Webinar

Choose Your Domair Provider Wisely and Domains for $9.99/yr

Learn the do's and d search engine optimi Download our *Guide Found Online* now.

Sea

The data contained in GoDaddy.com, Inc.'s WhoIs database, while believed by the company to be reliable, is provided "as is" with no guarantee or warranties regarding its accuracy. This information is provided for the sole purpose of assisting you in obtaining information about domain name registration records. Any use of this data for any other purpose is expressly forbidden without the prior written permission of GoDaddy.com, Inc. By submitting an inquiry, you agree to these terms of usage and limitations of warranty. In particular, you agree not to use this data to allow, enable, or otherwise make possible, dissemination or collection of this data, in part or in its entirety, for any purpose, such as the transmission of unsolicited advertising and and solicitations of any kind, including spam. You further agree not to use this data to enable high volume, automated or robotic electronic processes designed to collect or compile this data for any purpose, including mining this data for your own personal or commercial purposes.

Please note: the registrant of the domain name is specified in the "registrant" field. In most cases, GoDaddy.com, Inc. is not the registrant of domain names listed in this database.

Registrant:
Domains by Proxy, Inc.
DomainsByProxy.com
15111 N. Hayden Rd., Ste 160, PMB 353
Scottsdale, Arizona 85260

United States

Registered through: GoDaddy.com, Inc. (http://www.godaddy.com)
Domain Name: PANTERA.COM
Created on: 29-Sep-98
Expires on: 27-Sep-07
Last Updated on: 03-Aug-05

Administrative Contact:
Private, Registration PANTERA.COM@domainsbyproxy.com
Domains by Proxy, Inc.
DomainsByProxy.com
15111 N. Hayden Rd., Ste 160, PMB 353
Scottsdale, Arizona 85260
United States
(480) 624-2599 Fax -- (480) 624-2599

Technical Contact:
Private, Registration PANTERA.COM@domainsbyproxy.com
Domains by Proxy, Inc.
DomainsByProxy.com
15111 N. Hayden Rd., Ste 160, PMB 353
Scottsdale, Arizona 85260
United States
(480) 624-2599 Fax -- (480) 624-2599

Domain servers in listed order:
NS1.NEWFOUNDPOWER.COM
NS2.NEWFOUNDPOWER.COM

The previous information has been obtained either directly from the registrant or a registrar of the domain name other than Network Solutions. Network Solutions, therefore, does not guarantee its accuracy or completeness.

Show underlying registry data for this record

Current Registrar:	GODADDY.COM, INC.
IP Address:	72.29.79.244 (ARIN & RIPE IP search)
IP Location:	US(UNITED STATES)-FLORIDA-ORLANDO
Record Type:	Domain Name
Server Type:	Apache 2
Lock Status:	clientDeleteProhibited
Web Site Status:	Active
DMOZ	no listings
Y! Directory:	see listings

BUY THE AVAILABLE EXTENSIONS FOR THIS DOMAIN NA

pantera	☑	.tv
pantera	☑	.cc
pantera	☑	.bz
pantera	☑	.gs
pantera	☑	.tc
pantera	☑	.ms

Continue »

SEARCH AGAIN

Enter a search term:

e.g. networksolutions.cc

Search by:

Web Site Title:	The Premier Pantera Website
Meta Description:	The Official Pantera Website
Meta Keywords:	The Official Pantera Website, Dimebag Darrell, Vinnie Paul, Phil Anselmo, Damageplan, CFH, Down, Superjoint Ritual, Gasoline, Metal, Heavy Metal, Dime Memorial, kronk, washburn, randall, dean guitars, cowboys from hell, vulgar display, far beyond driven,
Secure:	No
E-commerce:	No
Traffic Ranking:	4
Data as of:	10-Sep-2006

Domain Name
NIC Handle
IP Address

Need to get your business online?
Our professional designers can build a custom Web site for your business
$11.95/month, plus a $499.00 design fee

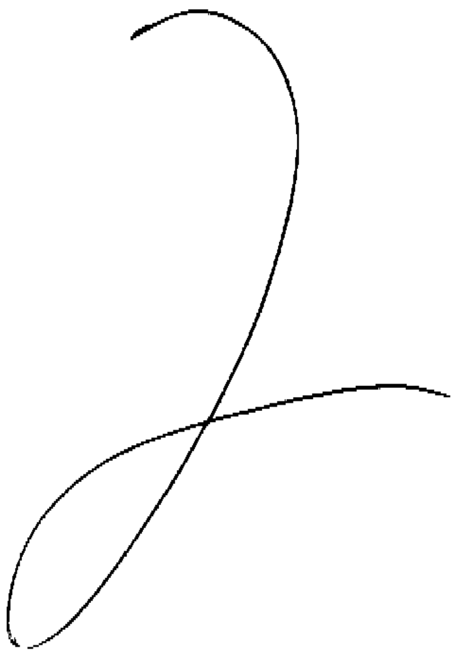
Go

PerformanceClicks™ from Network Solutions
Create and manage your online advertising from as low as **$125/month plus $99 one time set-up fee**

Go

"An outstanding c service experien J.D. Power and As

© Copyright 2007 Network Solutions. All rights reserved.



PANTERA
Official Message Board

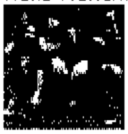
Panterachat

The Pantera Bulletin Board

FAQ Search Memberlist Usergroups Register
Profile Log in to check your private messages Log in

Welcome to the new and Unoffical Pantera.com and Panterachat

new topic post reply Panterachat Forum Index » Pantera Free Zone

Author	Message
Alfie Site Admin Joined: 04 Sep 2001 Posts: 19824 Location: A van down by the River	Posted: Tue Feb 11, 2003 12:40 am quote Yes thats right people. the jews brought the lawyers on me! they said "TAKE DOWN THE WORD OFFICIAL ON ALL YOUR WEBSITES" This was a week ago.. did i do it? hahaha FUCK YOU JEWS profile PM email www AIM YIM
necro Driven By Demons Joined: 04 Sep 2001 Posts: 11428 Location: Father Cardinal Laws Confessional	Posted: Tue Feb 11, 2003 12:41 am quote they scared you bitch. All you gotta do now is take the anal raping _________________ "Rosa Parks didnt do nothing but sit her black ass down." profile PM www AIM msnm
Jorgen Hells Henchmen  Joined: 04 Sep 2001 Posts: 34066 Location: American Fork, Utah	Posted: Tue Feb 11, 2003 12:41 am quote oh i see, that is fucked up, well... there are not a band anymore really so let em dig their own whole. Sorry to say but damn, this is gay _________________ *Let me introdushe to you the very shexshual... the very TOIT!!! AUSHTIN POWERSH FAZHA!!* profile PM email www AIM

...ewhat Damaged
...riven By Demons

Joined: 04 Sep 2001
Posts: 11381
Location: Chicago, Il

Posted: Tue Feb 11, 2003 12:42 am quote

that fucking sucks

Philip Anselmo's God: Sir James Hetfield

"Metallica was the thing then, and they still are today. It's just they've chosen a different path to go with their new music."

profile PM

---

jake
Demonic Minion

Joined: 04 Sep 2001
Posts: 6556
Location: almost heathen wv

Posted: Tue Feb 11, 2003 12:44 am quote

damn alfie,you go through some shit dude..thanks for keeping this shit together i suppose

...e..the other a shaking fist

profile PM

A Fleeting Glimpse
13 Steps to Hell

Joined: 04 Sep 2001
Posts: 681
Location: North Carolina

Posted: Tue Feb 11, 2003 12:45 am quote

Hell yeah man ...

> **HeavyMetalSoldier666 wrote:**
> i was listening to gangsta rap along with my true love heavy metal. But when I got pushed by gangsta hoods in school i changed my outlook on gangsta rap and

profile PM

SKULLCRUSHER
Driven By Demons

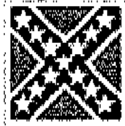
Joined: 04 Sep 2001
Posts: 11094

Posted: Tue Feb 11, 2003 12:45 am quote

uh, you don't have to make them unnoficial

profile PM

HeavyMetalSoldier666
Vulgar Poster



Joined: 04 Sep 2001
Posts: 3951
Location: Casper, Wyoming

Posted: Tue Feb 11, 2003 12:45 am quote

Elektra records must be the official website.

profile PM www YIM

Demonic Minion

Joined: 04 Sep 2001
Posts: 6556
Location: almost heathen wv

Posted: Tue Feb 11, 2003 1:15 am quote

new found power OFFICIAL board *light bulb* and hope they are fucking equally as bad ass as pantera!

profile PM e..the other a shaking fist

Browns Town
Kill Babies

Joined: 04 Sep 2001
Posts: 8383
Location: Cleveland, Ohio

Posted: Tue Feb 11, 2003 1:31 am quote

> **jake wrote:**
> new found power OFFICIAL board *light bulb* and hope they are fucking equally as bad ass as pantera!

Fuck these rock stars and their boards. Let them pay for AND pay someone to run that shit.

OSU 31 Miami 24 1-03-03

"Head 666 feet thick, my heart just skipped a tick"

profile PM AIM YIM

Display posts from previous: All Posts Oldest First Go

new topic post reply Panterachat Forum Index » Pantera Free Zone

Jump to: Pantera Free Zone Go

You **cannot** post new topics in this forum
You **cannot** reply to topics in this forum
You **cannot** edit your posts in this forum
You **cannot** delete your posts in this forum
You **cannot** vote in polls in this forum

Powered by phpBB 2.0.3 © 2001, 2002 phpBB Group :: Theme & Graphics by
All times are GMT - 4 Hours

...d: 04 Sep 2001
...osts: 19826
Location: A van down by the River

profile PM email www AIM YIM

necro
Driven By Demons

Posted: Tue Feb 11, 2003 12:28 am

quote

BrazilianPanteragroupieslutboy

Joined: 04 Sep 2001
Posts: 11428
Location: Father Cardinal Laws Confessional

"Rosa Parks didnt do nothing but sit her black ass down."

profile PM www AIM msnm

Alfie
Site Admin

Posted: Tue Feb 11, 2003 12:30 am

quote

fuck pantera those bunch of nigger jews

Joined: 04 Sep 2001
Posts: 19826
Location: A van down by the River

profile PM email www AIM YIM

necro
Driven By Demons

Posted: Tue Feb 11, 2003 12:32 am

quote

Alfie wrote:

> fuck pantera those bunch of nigger jews

http://panterachat.com/phpBB/posting.php?mode=quote&p=983736&sid=8e48d9e02605801b13ae164b2a857956

Joined: 04 Sep 2001
Posts: 11428
Location: Father Cardinal Laws Confessional

profile PM www AIM msnm n."

Display posts from previous: All Posts Oldest First Go

new topic post reply Panterachat Forum Index » Pantera Free Zone

Jump to: Pantera Free Zone Go

You **cannot** post new topics in this forum
You **cannot** reply to topics in this forum
You **cannot** edit your posts in this forum
You **cannot** delete your posts in this forum
You **cannot** vote in polls in this forum

Powered by phpBB 2.0.3 © 2001, 2002 phpBB Group :: Theme & Graphics by
All times are GMT - 4 Hours

PanteRachat.com

From AboutUs

Title

Panterachat :: Index

Languages

English

Contact

Leif Alfenas
pantera.net@umich.edu
+1 734 671 0309

Additional Information

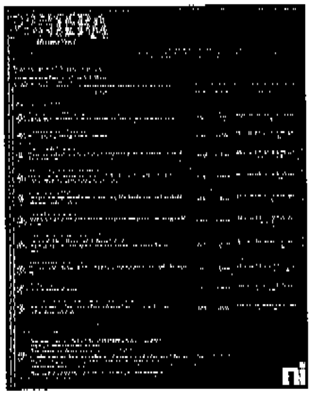
Related Domains

- Pantera.com

External Links

- **Alexa**: PanteRachat.com (http://www.alexa.com/data/details/main?url=panterachat.com)
- WHOIS for PanteRachat.com (http://whois.domaintools.com/panterachat.com)

Go directly to site (http://www.panterachat.com/)



{{{stats}}}

(http://whois.domaintools.com/panterachat.com) DomainTools.com (http://whois.domaintools.com/panterachat.com)

(http://snapshot.compete.com/PanteRachat.com) Compete.com (http://snapshot.compete.com/PanteRachat.com)

Retrieved from "http://www.aboutus.org/PanteRachat.com"

- This page was last modified 05:11, 10 June 2007.
- All content is available under the terms of the GFDL and/or the CC By-SA License. (See **Copyrights** for details.)
- Privacy policy
- About AboutUs
- Disclaimers

3

LAW OFFICES
HERTZ SCHRAM PC
1760 SOUTH TELEGRAPH ROAD
SUITE 300
BLOOMFIELD HILLS, MICHIGAN 48302-0183

TELEPHONE (248) 335-5000
FACSIMILE (248) 335-3346

www.hertzschram.com

hhertz@hertzschram.com

BRADLEY J. SCHRAM 1
HOWARD HERTZ
VICTOR M. NORRIS
ROBERT P. GELLER
STEVE J. WEISS 2
WALTER J. PISZCZATOWSKI
JEFFREY A. ROBBINS 2, 5
KENNETH F. SILVER
MICHAEL J. REX
BRIAN WITUS 3
EVA T. CANTARELLA
LISA M. KAVALHUNA 4
STEVEN P. JENKINS
GERALD P. CAVELLIER
LAURIE S. RAAB
DEREK D. McLEOD 2
DANIEL S. SINGER 2, 6
GARY P. SUPANICH

COUNSEL
JAMES W. BURDICK, P.C. 7

OF COUNSEL
ELMER L. ROLLER, P.C.
JUSTIN C. RAVITZ

HARVEY D. GELLER
(1928-1989)

1 ALSO MEMBER OF FLORIDA AND WASHINGTON, D.C. BARS
2 ALSO MEMBER OF FLORIDA BAR
3 ALSO MEMBER OF ILLINOIS BAR
4 ALSO MEMBER OF OHIO BAR
5 ALSO C.P.A. AND LL.M. IN TAXATION
6 ALSO LL.M. IN TAXATION
7 ALSO MEMBER OF CALIFORNIA BAR

July 17, 2007

VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Leif Alfenas
13481 Phelps St
Southgate, MI 48195

Re: www.pantera.com

Dear Mr. Alfenas:

My law firm has been retained and I write this letter on behalf of the Pantera Partnership (the "Partnership"). As you are aware, the Partnership consists of members of the famous music group known as Pantera. As you are also aware, the music group Pantera's name was and remains used in commerce for commercial purposes. In addition, there is no dispute that you are not a partner of the Partnership, and that you have no ownership interest in the "Pantera" name. Rather, you operate, maintain, and/or exercise control over the domain name pantera.com. Your control of pantera.com has been called to my attention and you are hereby put on notice that your conduct is in clear violation of federal law.

First, the Partnership is the owner of the "Pantera" name, and it is the sole holder of all intellectual property rights contained therein. By operating, maintaining and/or exercising control over pantera.com, you have infringed and diluted the "Pantera" name in violation of 15 U.S.C. § 1051, *et seq.* As a consequence of your conduct, the Partnership is entitled to institute legal proceedings against you to recover any profits you may received, any damages sustained by the Partnership, including lost profits and/or opportunity costs, as well as the cost of the action instituted by the Partnership against you. 15 U.S.C. § 1117(a). In filing suit, the Partnership will seek statutory damages in the amount of $100,000.00. 15 U.S.C. § 1117(c). Furthermore, the Partnership is entitled to an injunction, temporarily, preliminarily, and permanently enjoining you and any person or entity acting in concert with you from owning, operating, maintaining and/or exercising control over pantera.com. 15 U.S.C. § 1116.

Second, you are in violation of the Anticybersquatting Consumer Protection Act ("ACPA"), 15 U.S.C. § 1125(d). The ACPA applies to a person who registers, traffics in, or uses a domain name that is identical or confusingly similar to a distinctive mark or that is identical or confusing similar to or dilutive of a famous mark. 15 U.S.C. § 1125(d)(1)(A). Under the ACPA, the Partnership may elect to recover—instead of actual damages and profits—an award of statutory damages in the amount of $100,000.00. 15 U.S.C. § 1117(d). In addition, the Partnership is entitled to injunctive relief under 15 U.S.C. § 1116(a).

As you can see, the Partnership is serious about pursuing all of its claims against you, as well as any person or entity acting in concert with you in the ownership, operation, maintenance, control over, registration, trafficking in, and/or use of pantera.com. Further, there is simply no defense for your conduct given that you are not an owner of the "Pantera" and given your relationship to pantera.com. As a consequence, the Partnership demands that:

(1) You cease and desist all ownership, operation, maintenance, control over, registration, trafficking in, and/or use of pantera.com;

(2) You deliver the domain name pantera.com and any required documents of transfer to the Partnership; and

(3) You agree to stop using the domain name pantera.com for any purpose.

Should these requests be met by July 31, 2007, the Partnership will not file suit against you. If the foregoing requests are not met by that date, however, the Partnership will have no choice but to bring an action against you in the United States District Court for the Eastern District of Michigan in order to vindicate its rights by pursuing all available remedies, including money damages, injunctive relief, and attorney fees.

I strongly urge you to consult immediately with legal counsel with respect to the above. If you elect not to retain counsel, please contact me by July 24, 2007 so that we can discuss an amicable resolution of this matter.

This letter is not intended to enumerate all actions or claims that the Partnership may have against you and all rights are hereby reserved.

Sincerely,

HERTZ SCHRAM PC

Howard Hertz

cc: Pantera Partnership c/o Gelfand Rennert & Feldman
Kimberly Zide Davis

S:\Staff\Belcher, Cathy\HOWARD\ENTERTAINMENT\Pantera Partnership\Alfonas Ltr 071707 (rev).doc

7004 2510 0007 4180 5125

U.S. Postal Service™

CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage [illegible]ded)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

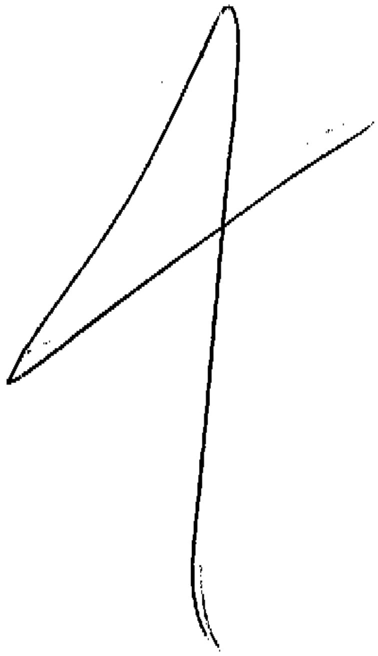
Postage	$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	$	

Sent To Leif Alfenas

Street, Apt. No.; or PO Box No. 13481 Phelps St.

City, State, ZIP+4 Southgate, MI 48195

PS Form 3800, June 2002 See Reverse for Instructions



WILLIAMS, HUGHES & COOK, PLLC
ATTORNEYS AT LAW

Theodore N. Williams, Jr.
Douglas M. Hughes
Shon A. Cook**

Jason M. [illegible]
Eric C. [illegible]
Emilia L.F. McGahey

Of Counsel:
Mark J. Anderson*
Fred C. Culver, Jr.
James R. Kubza
L. James Lemmen, MD*
David B. Merwin
** Also Admitted in CO*
*** Also Admitted in Iowa*

July 24, 2007

BY FACSIMILE AND FIRST CLASS MAIL

Howard Hertz, Esq.
HERTZ SCHRAM, P.C.
1760 S. Telegraph, Suite 300
Bloomfield Hills, MI 48302
Facsimile: (248) 335-3346

Re: Pantera allegations against Mr. Leif Alfenas.

Dear Mr. Hertz:

I have received a copy of your recent correspondence on behalf of the Pantera Partnership, to Mr. Leif Alfenas. Mr. Alfenas has contacted me to request that I investigate and evaluate whether any of the rather inflammatory assertions contained in your letter actually are supported by fact or law. I'm delighted to examine your arguments carefully.

Although the matter remains under investigation, and I am willing to review any evidence or authority that you may wish to forward to me for my consideration, my initial impression is that you have no valid affirmative case to make under established trademark law in the Sixth Circuit. Moreover, even if you had an affirmative case to make, your clients nevertheless would be barred from any relief by the affirmative defenses of acquiescence and *laches*, as well as other affirmative defenses (such as unclean hands) that are available.

Indeed, there is no dispute that the Pantera Partnership and its members all have knowingly and voluntarily acquiesced in the publication of this non-commercial Website since the time that Mr. Alfenas started publishing it. There also is no dispute that the presumptive *laches* period for any hypothetical trademark claim expired many years ago.

120 W. Apple Avenue P.O. Box 599 Muskegon, Michigan 49443-0599
ph 231.726.4857 231.728.1111 *toll free* 1.800.723.8323 *fax* 231.727.2130 *web site:* www.whcslaw.com *e-mail* lawyers@whcspc.com

Moreover, Mr. Alfenas already has brought to my attention more than sufficient evidence of affirmative conduct on Pantera's part, as well as evidence of reasonable reliance by Mr. Alfenas, to support a robust and outcome-determinative defense based on acquiescence. See Profitness Physical Therapy Ctr. v. Pro-Fit Orthopedic & Sports Physical Therapy P.C., 314 F.3d 62, 68-69 (2nd Cir. 2002); Kellogg Company v. Exxon Corp., 209 F.3d 562, 572 (6th Cir. 2000) (explaining difference between *laches* and acquiescence).

What remain in dispute, at this point, are each and all of the assertions made in your letter. Your repeated contention that the bare allegations and legal conclusions you have asserted are, in some way, "undisputed," is not correct, and with all respect, is categorically rejected. As you know, if your client elects to initiate litigation, the burden of production and persuasion will be on you. You are welcome to persuade me, if you can, that your client actually has what it takes to prove your bare allegations in a court of law.

You appear to be eager to litigate in the Eastern District of Michigan. Please review Judge Cleland's sound and well-reasoned decision in Ford Motor Co. v. 2600 Enterprises, 177 F. Supp. 2d 661 (E. D. Mi. 2001), and then let me know whether you would prefer to litigate on something more of a clean slate, here in the Western District of Michigan. Of course, a West Michigan venue does not change the binding effect of Sixth Circuit precedent.

While you are reviewing the relevant case-law, please also be sure to consider Lucas Nursery and Landscaping, Inc. v. Grosse, 359 F.3d 806 (6th Cir. 2004), and Taubman Co. v. Webfeats, 319 F.3d 770, 777-78 (6th Cir. 2003) ("We find that Mishkoff's use of Taubman's mark in the domain name 'taubmansucks.com' is purely an exhibition of Free Speech, and the Lanham Act is not invoked."). See also Bosley Medical Institute, Inc. v. Kremer, 403 F.3d 672 (9th Cir. 2005); Lamparello v. Falwell, 420 F.3d 309 (4th Cir. 2005); TMI, Inc. v. Maxwell, 368 F.3d 433 (5th Cir. 2004); Savannah College of Art and Design, Inc. v. Houeix, 369 F. Supp. 2d 929 (S.D. Ohio 2004).

If protected speech in the form of a non-commercial "gripe site," routinely is held ***not*** to violate either the Lanham Trademark Act, or the 1999 Anticybersquatting Consumer Protection Act, see id., and – in the 2600 Enterprises case -- an "Internet joke" was held to be so transparently non-commercial that the trademark plaintiff (Ford) failed even to state a claim sufficient to survive FED. R. CIV. P. 12(b)(6), then I simply cannot conceive how you intend to argue with a straight face, to any court, that the entirely sincere and non-commercial protected expression published on a "fan site" by Mr. Alfenas, should trigger any different outcome than the uniform pro-freedom outcome in the "gripe site" cases. Cf. Spacey v.

Burgar, 207 F. Supp. 2d 1037, 1046-47 (C.D. Cal. 2001) (declining, on Due Process grounds, to exercise "effects test" jurisdiction over foreign publisher of an apparently sincere "fan site," because there is no apparent intent by the publisher to harm a California celebrity: "The Celebrity 1000 website expressly disclaims any endorsement of the site by the listed celebrities, and nothing in the evidence presented, or in anything the Court has found by accessing Burgar's site, contains any derogatory statement about Spacey.").

In the past, Mr. Alfenas enjoyed a positive and mutually-respectful relationship with your client(s). He is now at something of a loss, and so am I, to understand your clients' more recent litigious impulses, and their apparent desire to squander the goodwill that everyone concerned had developed some years ago.

I think it would be a shame, in this instance, for your clients to squander resources on lengthy and protracted litigation. Then again, I've been more than willing, in the past, to help clients stand up for principle in court, when they are left with no other alternative.

Please give me a call, so we can discuss whether it is possible to resolve this matter through cooperation and compromise, rather than conflict. Alternatively, if certain cowboys from Hell -- in a ([participle omitted] hostile) vulgar display of power -- remain bent on accelerating this metaphorical locomotive of litigation toward the inevitable, death-trap, train-wreck, clash with reality, then I suppose that life will be more interesting for the next few months, and I'll get to make more really bad, groaner references to song titles.

Thanks for your attention. Please give me a call so we can discuss this matter like reasonable people.

Very truly yours,

Eric C. Grimm

cc: Mr. Leif Alfenas (no encl.)
Paul Alan Levy, Public Citizen Litigation Group (with encl).

LAW OFFICES
HERTZ SCHRAM PC
1760 SOUTH TELEGRAPH ROAD
SUITE 300
BLOOMFIELD HILLS, MICHIGAN 48302-0183

TELEPHONE (248) 335-5000
FACSIMILE (248) 335-3346

www.hertzschram.com

hhertz@hertzschram.com

BRADLEY J. SCHRAM 1
HOWARD HERTZ
VICTOR M. NORRIS
ROBERT P. GELLER
STEVE J. WEISS 2
WALTER J. PISZCZATOWSKI
JEFFREY A. ROBBINS 2, 5
KENNETH F. SILVER
MICHAEL J. REX
BRIAN WITUS 3
EVA T. CANTARELLA
LISA M. KAVALHUNA 4
STEVEN P. JENKINS
GERALD P. CAVELLIER
LAURIE S. RAAB
DEREK D. McLEOD 2
DANIEL S. SINGER 2, 6
GARY P. SUPANICH

COUNSEL
JAMES W. BURDICK, P.C. 7

OF COUNSEL
ELMER L. ROLLER, P.C.
JUSTIN C. RAVITZ

HARVEY D. GELLER
(1928-1989)

1 ALSO MEMBER OF FLORIDA AND WASHINGTON, D.C. BARS
2 ALSO MEMBER OF FLORIDA BAR
3 ALSO MEMBER OF ILLINOIS BAR
4 ALSO MEMBER OF OHIO BAR
5 ALSO C.P.A. AND LL.M. IN TAXATION
6 ALSO LL.M. IN TAXATION
7 ALSO MEMBER OF CALIFORNIA BAR

July 17, 2007

VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Leif Alfenas
13481 Phelps St
Southgate, MI 48195

Re: www.pantera.com

Dear Mr. Alfenas:

My law firm has been retained and I write this letter on behalf of the Pantera Partnership (the "Partnership"). As you are aware, the Partnership consists of members of the famous music group known as Pantera. As you are also aware, the music group Pantera's name was and remains used in commerce for commercial purposes. In addition, there is no dispute that you are not a partner of the Partnership, and that you have no ownership interest in the "Pantera" name. Rather, you operate, maintain, and/or exercise control over the domain name pantera.com. Your control of pantera.com has been called to my attention and you are hereby put on notice that your conduct is in clear violation of federal law.

First, the Partnership is the owner of the "Pantera" name, and it is the sole holder of all intellectual property rights contained therein. By operating, maintaining and/or exercising control over pantera.com, you have infringed and diluted the "Pantera" name in violation of 15 U.S.C. § 1051, *et seq.* As a consequence of your conduct, the Partnership is entitled to institute legal proceedings against you to recover any profits you may received, any damages sustained by the Partnership, including lost profits and/or opportunity costs, as well as the cost of the action instituted by the Partnership against you. 15 U.S.C. § 1117(a). In filing suit, the Partnership will seek statutory damages in the amount of $100,000.00. 15 U.S.C. § 1117(c). Furthermore, the Partnership is entitled to an injunction, temporarily, preliminarily, and permanently enjoining you and any person or entity acting in concert with you from owning, operating, maintaining and/or exercising control over pantera.com. 15 U.S.C. § 1116.

Second, you are in violation of the Anticybersquatting Consumer Protection Act ("ACPA"), 15 U.S.C. § 1125(d). The ACPA applies to a person who registers, traffics in, or uses a domain name that is identical or confusingly similar to a distinctive mark or that is identical or confusing similar to or dilutive of a famous mark. 15 U.S.C. § 1125(d)(1)(A). Under the ACPA, the Partnership may elect to recover—instead of actual damages and profits—an award of statutory damages in the amount of $100,000.00. 15 U.S.C. § 1117(d). In addition, the Partnership is entitled to injunctive relief under 15 U.S.C. § 1116(a).

As you can see, the Partnership is serious about pursuing all of its claims against you, as well as any person or entity acting in concert with you in the ownership, operation, maintenance, control over, registration, trafficking in, and/or use of pantera.com. Further, there is simply no defense for your conduct given that you are not an owner of the "Pantera" and given your relationship to pantera.com. As a consequence, the Partnership demands that:

(1) You cease and desist all ownership, operation, maintenance, control over, registration, trafficking in, and/or use of pantera.com;

(2) You deliver the domain name pantera.com and any required documents of transfer to the Partnership; and

(3) You agree to stop using the domain name pantera.com for any purpose.

Should these requests be met by July 31, 2007, the Partnership will not file suit against you. If the foregoing requests are not met by that date, however, the Partnership will have no choice but to bring an action against you in the United States District Court for the Eastern District of Michigan in order to vindicate its rights by pursuing all available remedies, including money damages, injunctive relief, and attorney fees.

I strongly urge you to consult immediately with legal counsel with respect to the above. If you elect not to retain counsel, please contact me by July 24, 2007 so that we can discuss an amicable resolution of this matter.

This letter is not intended to enumerate all actions or claims that the Partnership may have against you and all rights are hereby reserved.

Sincerely,

HERTZ SCHRAM PC

Howard Hertz

cc: Pantera Partnership c/o Gelfand Rennert & Feldman
Kimberly Zide Davis

S:\Staff\Belcher, Cathy\HOWARD\ENTERTAINMENT\Pantera Partnership\Alfenas Ltr 071707 (rev).doc

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

County in which this action arose Wayne

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Pantera Partnership

DEFENDANTS Leif Alfenas

(b) County of Residence of First Listed Plaintiff Tarrant
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Wayne
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number) Howard Hertz
Hertz Schram PC
1760 S. Telegraph Road, #300
Bloomfield Hills, MI 48302 (248) 335-5000

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☒ 1	Incorporated or Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business In Another State	☒ 5	☐ 5
Citizen or Subject of a F...	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

Case: 2:07-cv-13244
Assigned To: Friedman, Bernard A
Referral Judge: Scheer, Donald A
Filed: 08-03-2007 At 12:13 PM
CMP PANTERA PARTNERSHIP V ALFENAS (EW)

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

PROPERTY RIGHTS
- ☒ 840 Trademark

OTHER STATUTES
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Fed. R. CIV. P. 9A; 15 USC 1125; 15 USC 1051
Brief description of cause: Trademark Infringement and Dilution

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND $
CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

840

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes
☒ No

If yes, give the following information:

Court: ______________________________

Case No.: ______________________________

Judge: ______________________________

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes
☒ No

If yes, give the following information:

Court: ______________________________

Case No.: ______________________________

Judge: ______________________________

Notes :